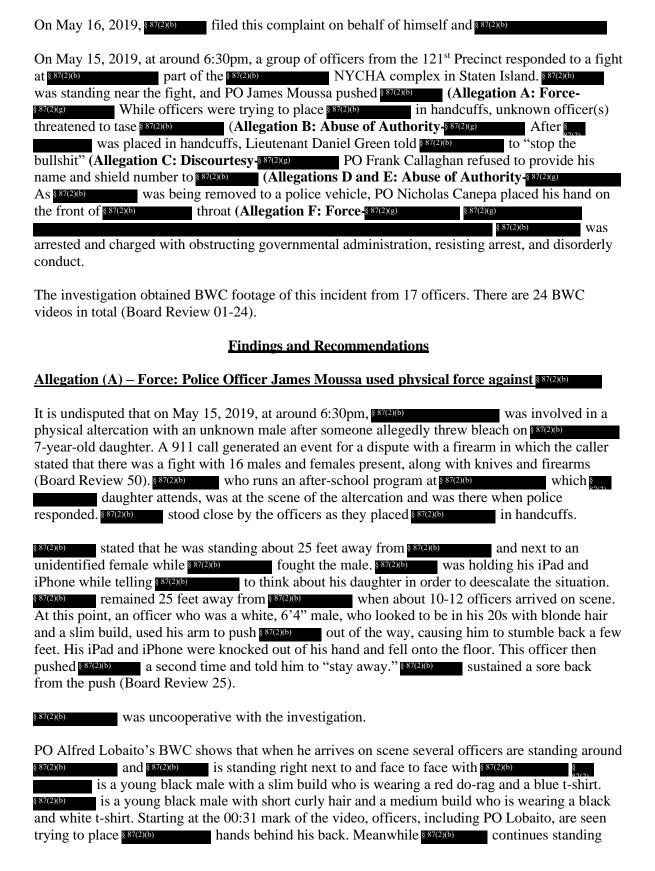
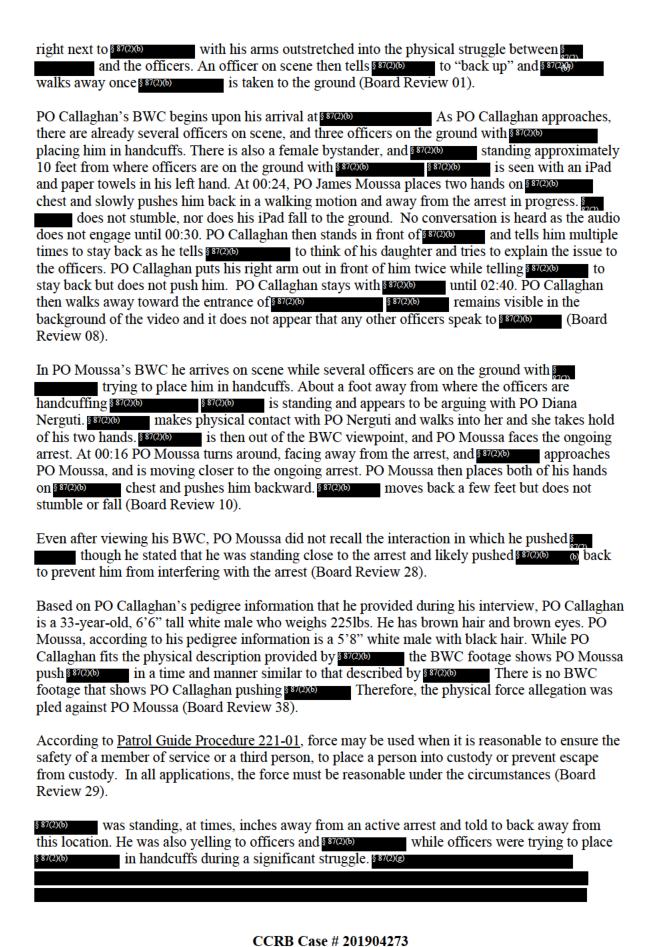
CCRB INVESTIGATIVE RECOMMENDATION

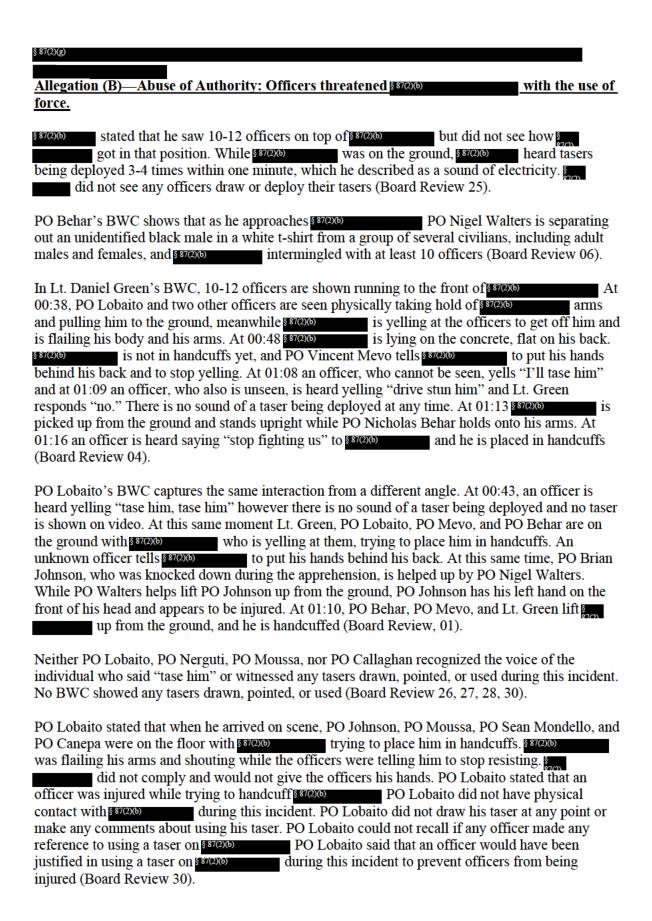
Investigator:		Team:	CCRB Case #:		Force	☑ Discourt.	U.S.
Eliana Behar		Squad #1	201904273	☑	Abuse	O.L.	✓ Injury
Incident Date(s)		Location of Incident:		I	Precinct:	18 Mo. SOL	EO SOL
Wednesday, 05/15/2019 6:30 PM		§ 87(2)(b)			121	11/15/2020	7/2/2021
Date/Time CV Reported		CV Reported At:	How CV Reported	:	Date/Time	Received at CCI	RB
Thu, 05/16/2019 9:27 PM		CCRB	On-line website		Thu, 05/16	/2019 9:27 PM	
Complainant/Victim	Type	Home Addre	ess				
Subject Officer(s)	Shield	TaxID	Command				
1. Officers			121 PCT				
2. POM James Moussa	31415	963664	121 PCT				
3. LT Daniel Green	00000	936071	121 PCT				
4. POM Frank Callaghan	21843	946816	121 PCT				
5. POM Nicholas Canepa	01262	950150	121 PCT				
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. POM Brian Johnson	14496	930425	121 PCT				
2. POM Sean Mondello	05194	956943	121 PCT				
3. POF Alexandra Florida	08608	956651	121 PCT				
4. SGT Sean Tiernan	04001	953482	121 PCT				
5. POM Nicholas Behar	30633	964918	121 PCT				
6. POF Diana Nerguti	17813	964679	121 PCT				
7. POM Alfred Lobaito	08420	943494	121 PCT				
8. SGT Vincent Mevo	4326	952013	121 PCT				
9. POM Nigel Walters	23558	963321	121 PCT				
10. POF Nicole Giglio	02974	963540	121 PCT				
11. POM Anthony Doyle	31277	963494	121 PCT				
12. POM John Pignatelli	06641	959075	121 PCT				
13. POM John Addington	03012	949967	121 PCT				
14. POM Devon Newland	15106	964185	MED DIV				
15. POM Gregory Valentin	4284	957239	121 PCT				
16. POM Michael Galluccio	27150	965118	121 PCT				
17. POM Brandon Nickel	15690	961977	121 PCT				
Officer(s)	Allegatio	n			Inve	stigator Recon	nmendation
A.POM James Moussa	Force: Po	olice Officer James Mou	ssa used physical fo	orce			
B. Officers	_	fficers threatened \$ 87(2)(6	wi	th th	ie		

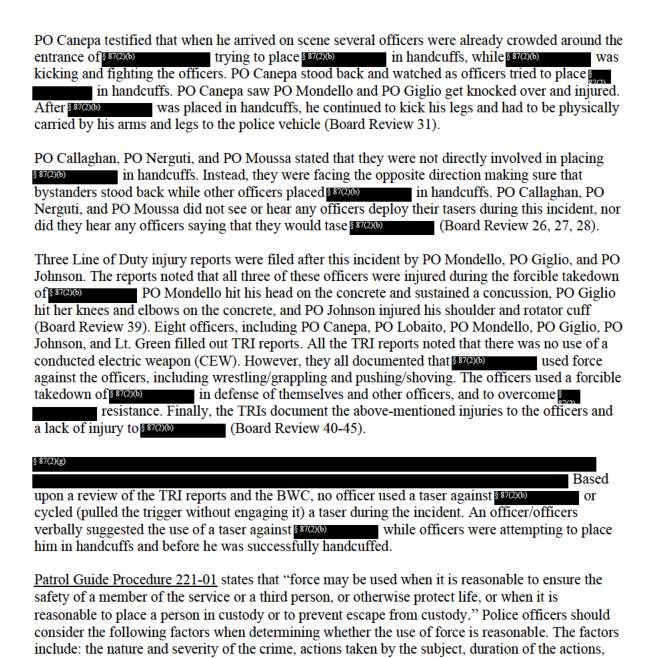
Officer(s)	Allegation	Investigator Recommendation
C.LT Daniel Green	Discourtesy: Lieutenant Daniel Green spoke discourteously to § 87(2)(b)	
D.POM Frank Callaghan	Abuse: Police Officer Frank Callaghan refused to provide his name to §87(2)(b)	S
E.POM Frank Callaghan	Abuse: Police Officer Frank Callaghan refused to provide his shield number to \$87(2)(b)	S
F.POM Nicholas Canepa	Force: Police Officer Nicholas Canepa used a chokehold against § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary







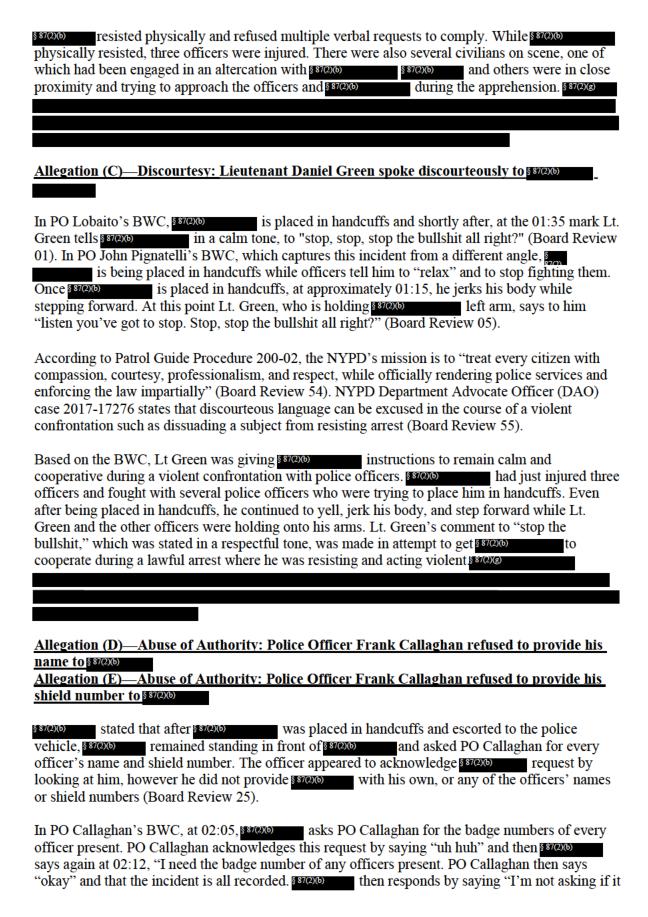


The use of a CEW is an act of force, and therefore the same factors from Patrol Guide 221-01 should be considered when using a CEW. According to <u>Patrol Guide Procedure 221-08</u>, prior to discharging a CEW an officer is to issue "an appropriate verbal warning, consistent with personal safety, to the intended subject and other members of the service present." Additionally, a CEW should only be used against a person who is actively resisting, exhibiting active aggression, or to prevent an individual from physically injuring themselves or others (Board Review 32).

hostile crowd, and whether the subject is under the influence (Board Review 29).

the immediacy of perceived threat, whether the subject is actively resisting custody or attempting to evade arrest by flight, the number of subjects in comparison to the number of officers, the size, age, and condition of the subject compared the officer's, violent history of the subject, presence of

§ 87(2)(g) §



can go to the precinct and make a complaint." At no point does PO Callaghan provide his, or any officer's, name or badge number to \$87(2)(6) (Board Review 08). PO Callaghan testified that he responded to and stood in front of [87(2)(b) an unknown female bystander, who he told to stay back multiple times. everybody's shield numbers" to PO Callaghan, and PO Callaghan responded that go to the precinct to obtain this information. PO Callaghan testified that he did not provide and with his own name or shield number, or the names or shield numbers of any officers present because it was an active scene and he could not go around and obtain every officer's shield number. PO Callaghan stated that § 87(2)(b) did not ask him specifically for his name or shield number and mentioned that his uniform had his name and shield number displayed. Typically, if an individual asks PO Callaghan specifically for his name or shield number, he provides this information. However, since \$87(2)(6) request was for everybody's name and shield number he was not required to answer. PO Callaghan knew that if he told \$87(2)(6) to go the precinct directly, a supervisor would have to give him all the information he requested (Board Review 26). According to Patrol Guide 203-09, officers are to courteously and clearly state their rank, name, shield number and command, or otherwise provide them, to anyone who requests this information. Officers must also allow the person ample time to note this information (Board Review 51). Although § 87(2)(6) asked for the shield numbers of every officer present and did not specifically ask PO Callaghan for his name or shield number, § \$7(2)(6) spoke with PO Callaghan alone and PO Callaghan fit the category of officers whose names \$87(2)(6) was seeking. While PG 203-09 does not require an officer to provide the names of other officers, it requires individual officers to provide their own information. PO Callaghan acknowledged \$87(2)(6) request by saying "uh huh" and "okay" demonstrating that he heard \$87(2)(6) question, however he did not provide (SQ) with his name or shield number. Allegation (F)—Force: Police Officer Nicholas Canepa used a chokehold against accused an officer of choking him per a review of PO Lobaito's BWC. In PO Lobaito's BWC footage (Board Review 01), at 02:00, officers are carrying sarcon his arms and legs while he is positioned face up, to the police vehicle. The viewpoint is from behind and to the left of \$87(2)(6) PO Behar (white male with light brown hair) is seen on the right side of § 87(2)(b) body, holding onto his right shoulder with both hands. At 02:04, a left hand extends and slightly cups the front of \$8/200 throat for less than one second (screenshot located in Board Review 52). At 02:05, the angle of PO Lobaito's camera pans slightly to the left, and PO Canepa (white male with black hair) is seen directly in front of [87(2)(6)] yells "yo, you grabbing me; you choking me?" and someone responds, "you're spitting on me, cut it out." § 87(2)(6) proceeds to yell "come on bro" three times. PO Florida's BWC footage (Board Review 13) captures the same interaction from an angle behind Beginning at 00:55 a group of six officer are positioned all and to the right of \$87(2)(6) body, holding onto his limbs, as they escort him to the police vehicle. Lt.

is all recorded" and continues to argue with PO Callaghan. PO Callaghan responds by saying "you

Green (bald white male in a white shirt) stands directly behind \$87000 head holding onto his back; PO Behar stands on \$87000 right side and holds his upper right shoulder; PO Canepa is to the right of PO Behar, standing face to face with \$87000 and holding onto the right side of \$87000 body; PO Lobaito (white male with dark brown hair, the tallest and heaviest of the officers) faces \$87000 and holds the left side of his body. At 01:01 PO Canepa is seen reaching upwards with his left arm, though his hand placement is not visible, and at 01:02 \$87000 says, "are you choking me?" and someone responds, "you're spitting on me, bro" and \$87000 says, "come on bro" three times. At 01:06, PO Canepa wipes the left front side of his face on his left shoulder.
PO Canepa's left arm is also visible in a position reaching toward at 01:15 of PO Addington's BWC (Board Review 11), though again, due to camera movement, the placement of his hand is not visible.
PO Canepa stated that he did not fully remember this incident. He was not recording with his BWC during this portion of the incident as his camera fell off as he initially ran to the scene. PO Canepa stated that (1) did not spit on him, and he did not recall anyone choking or placing their hands on the neck/throat of (1) After being shown PO Florida's and PO Lobaito's BWC, PO Canepa acknowledged observing himself raise his left arm in an upward motion, but did not recall what he was doing. He assumed that he was grabbing (1) arm because he was resisting being taken to the police vehicle. PO Canepa stated that he did not recall touching (1) throat or choking him (Board Review 31). PO Canepa stated that he did not recall seeing any officer place their hand on (1) neck or throat and could not identify whose hand was placed around (1) throat in the footage (Board Review 31).
Based on the BWC footage from PO Lobaito's BWC, an officer placed his left hand on throat. PO Florida's and PO Addington's BWCs show PO Canepa raising his left arm in an upward motion, and then states "are you choking me" while facing PO Canepa. The investigation determined based on a preponderance of the BWC evidence, that PO Canepa was the officer who placed his left hand around throat. Additionally, based on the immediate subsequent comment that was spitting and PO Canepa wiped his face on his sleeve, the investigation also determined that spices.
<u>Patrol Guide Procedure 221-01</u> states that members of service shall not use a chokehold, which includes, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air (Board Review 29).
§ 87(2)(g)
§ 87(2)(g), § 87(4-b)

CCRB Case # 201904273

CCRB CTS – Confidential Page 8

§ 87(2)(g), § 87(4-b)			
	<u>Civilian</u>	and Officer CCRB Histories	
	irst CCRB complaint to whi irst CCRB complaint to whi		rd Review 46). party (Board
PO Callagha	an has been a member of ser	rvice for 12 years and has been a subsone of which were substantiated.	
PO Moussa him.	has been a member of servi	ce for three years and has no CCRB	complaints against
PO Canepa CCRB com	plaints and 18 allegations, or 702922 involved a substantialepa. The board recommend ructions.	ce for eight years and has been a sub ne of which was substantiated. lated allegation of Discourtesy-Word ed formalized training, and the NYP	d against PO
	Mediation.	Civil and Criminal Histories	
• This compla	nint was not suitable for med	liation.	
	7, 2020, the New York City g filed regarding this compla	Office of Comptroller has no recordint (Board Review 35).	d of a Notice of
Squad No.:	1		
Investigator:	Eliana Behar Signature	Inv. Behar Print Title & Name	04/01/2021 Date

Squad Leader: N	/Igr. Joy Almeyda		4.1.21
_	Signature	Print Title & Name	Date
D .			
Reviewer:	Signature	Print Title & Name	Date